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I

106TH CONGRESS
1ST SESSION

H. R. 904

To assure access under group health plans and health insurance coverage
to covered emergency medical services.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1999

Mr. CARDIN (for himself, Mrs. ROUKEMA, Mr. SHAYS, Mr. TIERNEY, Mr. CAMPBELL, Mr. BERRY, Mr. SERRANO, Mr. DELAHUNT, Mr. BENTSEN, Mr. COOKSEY, Mr. ABERCROMBIE, Mr. UNDERWOOD, Mr. STARK, Mr. DEFAZIO, Mr. KLECZKA, Mrs. JOHNSON of Connecticut, Mr. WEYGAND, Mr. GREEN of Texas, Mr. McNULTY, Mr. BOEHLERT, Mr. GALLEGLY, Mr. LAFALCE, Mr. ACKERMAN, Ms. SLAUGHTER, Mr. DOYLE, Mrs. MALONEY of New York, Mrs. THURMAN, Mr. HINCHEY, Mr. INSLEE, Mr. LEWIS of Georgia, Mr. COYNE, Mr. ROTHMAN, Mr. ENGLISH, Mrs. MINK of Hawaii, Mr. WALSH, Mr. KLINK, Ms. HOOLEY of Oregon, Mrs. EMERSON, Mr. LEVIN, Mr. DAVIS of Florida, Mr. UPTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GONZALEZ, and Mrs. MYRICK) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To assure access under group health plans and health
insurance coverage to covered emergency medical services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Access to Emergency
3 Medical Services Act of 1999”.

4 **SEC. 2. EMERGENCY SERVICES.**

5 (a) COVERAGE OF EMERGENCY SERVICES.—

6 (1) IN GENERAL.—If a group health plan, or
7 health insurance coverage offered by a health insur-
8 ance issuer, provides any benefits with respect to
9 emergency services (as defined in paragraph (2)(B)),
10 the plan or issuer shall cover emergency services fur-
11 nished under the plan or coverage—

12 (A) without the need for any prior author-
13 ization determination;

14 (B) whether or not the health care pro-
15 vider furnishing such services is a participating
16 provider with respect to such services;

17 (C) in a manner so that, if such services
18 are provided to a participant, beneficiary, or en-
19 rollee by a nonparticipating health care pro-
20 vider, the participant, beneficiary, or enrollee is
21 not liable for amounts that exceed the amounts
22 of liability that would be incurred if the services
23 were provided by a participating provider; and

24 (D) without regard to any other term or
25 condition of such plan or coverage (other than
26 exclusion or coordination of benefits, or an af-

1 filiation or waiting period, permitted under sec-
2 tion 2701 of the Public Health Service Act, sec-
3 tion 701 of the Employee Retirement Income
4 Security Act of 1974, or section 9801 of the In-
5 ternal Revenue Code of 1986, and other than
6 applicable cost sharing).

7 (2) DEFINITIONS.—In this section:

8 (A) EMERGENCY MEDICAL CONDITION
9 BASED ON PRUDENT LAYPERSON STANDARD.—

10 The term “emergency medical condition” means
11 a medical condition manifesting itself by acute
12 symptoms of sufficient severity (including se-
13 vere pain) such that a prudent layperson, who
14 possesses an average knowledge of health and
15 medicine, could reasonably expect the absence
16 of immediate medical attention to result in a
17 condition described in clause (i), (ii), or (iii) of
18 section 1867(e)(1)(A) of the Social Security Act
19 (42 U.S.C. 1395dd(e)(1)(A)).

20 (B) EMERGENCY SERVICES.—The term
21 “emergency services” means—

22 (i) a medical screening examination
23 (as required under section 1867 of the So-
24 cial Security Act, 42 U.S.C. 1395dd)) that
25 is within the capability of the emergency

1 department of a hospital, including ancil-
2 lary services routinely available to the
3 emergency department to evaluate an
4 emergency medical condition (as defined in
5 subparagraph (A)); and

6 (ii) within the capabilities of the staff
7 and facilities at the hospital, such further
8 medical examination and treatment as are
9 required under section 1867 of such Act to
10 stabilize the patient.

11 (C) STABILIZE.—The term “to stabilize”
12 means, with respect to an emergency medical
13 condition, to provide such medical treatment of
14 the condition as may be necessary to assure,
15 within reasonable medical probability, that no
16 material deterioration of the condition is likely
17 to result from or occur during the transfer of
18 the individual from a facility.

19 (b) REIMBURSEMENT FOR MAINTENANCE CARE AND
20 POST-STABILIZATION CARE.—In the case of services
21 (other than emergency services) for which benefits are
22 available under a group health plan, or under health insur-
23 ance coverage offered by a health insurance issuer, the
24 plan or issuer shall provide for reimbursement with re-
25 spect to such services provided to a participant, bene-

1 ficiary, or enrollee other than through a participating
2 health care provider in a manner consistent with sub-
3 section (a)(1)(C) (and shall otherwise comply with the
4 guidelines established under section 1852(d)(2) of the So-
5 cial Security Act (relating to promoting efficient and time-
6 ly coordination of appropriate maintenance and post-sta-
7 bilization care of an enrollee after an enrollee has been
8 determined to be stable), or, in the absence of guidelines
9 under such section, such guidelines as the Secretary shall
10 establish to carry out this subsection), if the services are
11 maintenance care or post-stabilization care covered under
12 such guidelines.

13 (c) INFORMATION FOR PARTICIPANTS, BENE-
14 FICIARIES, AND ENROLLEES.—

15 (1) GROUP HEALTH PLANS.—A group health
16 plan shall—

17 (A) provide to participants and bene-
18 ficiaries at the time of initial coverage under
19 the plan (or the effective date of this Act, in the
20 case of individuals who are participants and
21 beneficiaries as of such date), at least annually
22 thereafter, and at the beginning of any open en-
23 rollment provided under the plan, the informa-
24 tion described in paragraph (3) in printed form;
25 and

1 (B) upon request, make available to par-
2 ticipants and beneficiaries, to the applicable au-
3 thority, and to prospective participants and
4 beneficiaries the information described in para-
5 graph (3) in printed form.

6 (2) HEALTH INSURANCE ISSUERS.—A health
7 insurance issuer, in connection with the provision of
8 health insurance coverage, shall—

9 (A) provide to individuals enrolled under
10 such coverage at the time of enrollment, and at
11 least annually thereafter, (and to plan adminis-
12 trators of group health plans in connection with
13 which such coverage is offered) the information
14 described in paragraph (3) in printed form; and

15 (B) upon request, make available to the
16 applicable authority, to individuals who are pro-
17 spective enrollees, to plan administrators of
18 group health plans that may obtain such cov-
19 erage, and to the public the information de-
20 scribed in paragraph (3) in printed form.

21 (3) REQUIRED INFORMATION.—The informa-
22 tion described in this paragraph with respect to a
23 group health plan or health insurance coverage of-
24 fered by a health insurance issuer is information

1 about the coverage of emergency services,
2 including—

3 (A) the appropriate use of emergency serv-
4 ices, including use of the 911 telephone system
5 or its local equivalent in emergency situations
6 and an explanation of what constitutes an
7 emergency situation;

8 (B) the process and procedures of the plan
9 or issuer for obtaining emergency services;

10 (C) any cost-sharing applicable to emer-
11 gency services; and

12 (D) the locations of—

13 (i) emergency departments; and

14 (ii) other settings in which plan physi-
15 cians and hospitals provide emergency
16 services and post-stabilization care.

17 (d) DEFINITIONS.—For purposes of this section—

18 (1) The term “applicable authority” means—

19 (A) in the case of a group health plan, the
20 Secretary of Health and Human Services and
21 the Secretary of Labor; and

22 (B) in the case of a health insurance issuer
23 with respect to a specific provision of this sec-
24 tion, the applicable State authority or the Sec-
25 retary of Health and Human Services if such

1 Secretary is enforcing such provisions under
2 section 2722(a)(2) or 2761(a)(2) of the Public
3 Health Service Act (42 U.S.C. 300gg-22(a)(2),
4 300gg-61(a)(2)).

5 (2) The terms “applicable State authority”,
6 “beneficiary”, “group health plan”, “health insur-
7 ance coverage”, “health insurance issuer”, and “par-
8 ticipant” shall have the meanings given to such
9 terms in section 2791 of the Public Health Service
10 Act (42 U.S.C. 300gg-91).

11 (3) The term “nonparticipating” means, with
12 respect to a health care provider that provides health
13 care items and services to a participant, beneficiary,
14 or enrollee under a group health plan or health in-
15 surance coverage, a health care provider that is not
16 a participating health care provider with respect to
17 such items and services.

18 (4) The term “participating” means, with re-
19 spect to a health care provider that provides health
20 care items and services to a participant, beneficiary,
21 or enrollee under a group health plan or health in-
22 surance coverage offered by a health insurance
23 issuer, a health care provider that furnishes such
24 items and services under a contract or other ar-
25 rangement with the plan or issuer.

1 **SEC. 3. STANDARDS UNDER THE PUBLIC HEALTH SERVICE**
2 **ACT.**

3 (a) GROUP MARKET.—Subpart 2 of part A of title
4 XXVII of the Public Health Service Act is amended by
5 adding at the end the following new section:

6 **“SEC. 2707. EMERGENCY SERVICES.**

7 “(a) IN GENERAL.—Each group health plan (and
8 each health insurance issuer offering group health insur-
9 ance coverage in connection with such a plan) shall comply
10 with the requirements of the Access to Emergency Medical
11 Services Act of 1999, and such requirements shall be
12 deemed to be incorporated into this subsection.

13 “(b) NOTICE.—A group health plan shall comply with
14 the notice requirement under section 711(d) of the Em-
15 ployee Retirement Income Security Act with respect to the
16 requirements referred to in subsection (a), and a health
17 insurance issuer shall comply with such notice requirement
18 as if such section applied to such issuer and such issuer
19 were a group health plan.”.

20 (b) INDIVIDUAL MARKET.—Part B of title XXVII of
21 the Public Health Service Act is amended by inserting
22 after section 2752 the following new section:

23 **“SEC. 2753. EMERGENCY SERVICES.**

24 “(a) IN GENERAL.—Each health insurance issuer
25 shall comply with the requirements of the Access to Emer-
26 gency Medical Services Act of 1999 with respect to indi-

1 vidual health insurance coverage it offers, and such re-
2 quirements shall be deemed to be incorporated into this
3 subsection.

4 “(b) NOTICE.—A health insurance issuer under this
5 part shall comply with the notice requirement under sec-
6 tion 711(d) of the Employee Retirement Income Security
7 Act with respect to the requirements referred to in sub-
8 section (a) as if such section applied to such issuer and
9 such issuer were a group health plan.”.

10 **SEC. 4. STANDARDS UNDER THE EMPLOYEE RETIREMENT**
11 **INCOME SECURITY ACT OF 1974.**

12 (a) IN GENERAL.—Subpart B of part 7 of subtitle
13 B of title I of the Employee Retirement Income Security
14 Act of 1974 is amended by adding at the end the following
15 new section:

16 **“SEC. 714. EMERGENCY SERVICES.**

17 “(a) IN GENERAL.—Subject to subsection (b), a
18 group health plan (and a health insurance issuer offering
19 group health insurance coverage in connection with such
20 a plan) shall comply with the requirements of the Access
21 to Emergency Medical Services Act of 1999, and such re-
22 quirements shall be deemed to be incorporated into this
23 subsection.

24 “(b) SATISFACTION OF REQUIREMENTS.—For pur-
25 poses of subsection (a), insofar as a group health plan pro-

1 vides benefits in the form of health insurance coverage
 2 through a health insurance issuer, the plan shall be treat-
 3 ed as meeting the requirements of the Access to Emer-
 4 gency Medical Services Act of 1999 with respect to such
 5 benefits and not be considered as failing to meet such re-
 6 quirements because of a failure of the issuer to meet such
 7 requirements so long as the plan sponsor or its representa-
 8 tives did not cause such failure by the issuer.”.

9 (b) CONFORMING AMENDMENT.—Section 732(a) of
 10 such Act (29 U.S.C. 1191a(a)) is amended by striking
 11 “section 711” and inserting “sections 711 and 714”.

12 (c) CLERICAL AMENDMENT.—The table of contents
 13 in section 1 of such Act is amended by inserting after the
 14 item relating to section 713 the following new item:

“Sec. 714. Emergency services.”.

15 **SEC. 5. STANDARDS UNDER THE INTERNAL REVENUE CODE**
 16 **OF 1986.**

17 Subchapter B of chapter 100 of the Internal Revenue
 18 Code of 1986 is amended—

19 (1) in the table of sections, by inserting after
 20 the item relating to section 9812 the following new
 21 item:

“Sec. 9813. Standard relating to emergency services.”; and

22 (2) by inserting after section 9812 the follow-
 23 ing:

1 **“SEC. 9813. STANDARD RELATING TO EMERGENCY SERV-**
2 **ICES.**

3 “A group health plan shall comply with the require-
4 ments of the Access to Emergency Medical Services Act
5 of 1999, and such requirements shall be deemed to be in-
6 corporated into this section.”.

7 **SEC. 6. EFFECTIVE DATE.**

8 (a) GROUP HEALTH COVERAGE.—

9 (1) IN GENERAL.—Subject to paragraph (2),
10 the amendments made by sections 3(a), 4, and 5
11 (and section 2 insofar as it relates to such sections)
12 apply to group health plans for plan years beginning
13 on or after January 1, 2000.

14 (2) TREATMENT OF COLLECTIVE BARGAINING
15 AGREEMENTS.—In the case of a group health plan
16 maintained pursuant to 1 or more collective bargain-
17 ing agreements between employee representatives
18 and 1 or more employers ratified before the date of
19 the enactment of this Act, the amendments made by
20 sections 3(a), 4, and 5 (and section 2 insofar as it
21 relates to such sections) shall not apply to plan
22 years beginning before the later of—

23 (A) the date on which the last collective
24 bargaining agreement relating to the plan ter-
25 minates (determined without regard to any ex-

1 tension thereof agreed to after the date of the
2 enactment of this Act); or

3 (B) January 1, 2000.

4 For purposes of subparagraph (A), any plan amend-
5 ment made pursuant to a collective bargaining
6 agreement relating to the plan that amends the plan
7 solely to conform to any requirement of this Act
8 shall not be treated as a termination of such collec-
9 tive bargaining agreement.

10 (b) INDIVIDUAL MARKET.—The amendment made by
11 section 3(b) (and section 2 insofar as it relates to such
12 section) applies with respect to health insurance coverage
13 offered, sold, issued, renewed, in effect, or operated in the
14 individual market on or after January 1, 2000.

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